

DETAILED ACTION

Examiner acknowledges the reply filed May 14, 2008.

Specification

The amendment filed May 9, 2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The specification discloses explanation and elaboration for claim elements that were not previously discussed or disclosed by the specification. Furthermore, the specification amendments are in greater detail than the originally filed claims.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 10-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification makes no

Art Unit: 3769

reference to a locating module or a GPS module. Particularly, there is no reference as to how a GPS module is to be integrated into the universal adapter, what components it is to be in communication with, or how it is function in the system. Thus, one of ordinary skill in the art would not be able to practice the invention with a locating module or a GPS module without undue experimentation.

Claims 23-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification makes no reference to user modes. Particularly, there is no reference as to what functions or purpose the different user modes would serve or what relationship user modes have to the structure and operation of the system. Thus, one of ordinary skill in the art would not be able to practice the invention with different user modes without undue experimentation.

Claims 26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification makes no reference to the function module being used without the universal adapter. Particularly, there is no reference as to what functions or purpose the function module would serve without the universal adapter or how it would accomplish its function and purpose and relate to other

Art Unit: 3769

elements within the system. Thus, one of ordinary skill in the art would not be able to practice the invention with function module used without the universal adapter without undue experimentation.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "locating module" is not defined explicitly in the specification or implicitly through its usage. Thus, the term renders the claim indefinite since one of ordinary skill in the art would not be able to ascertain the scope of the claim. Furthermore, the Examiner has interpreted the claim in a manner that would render the prior art applicable. *Ex parte Ionescu*, 222 USPQ 537 (Bd. App. 1984). Claim 12 is rejected due to its dependence upon claim 11.

Claims 19-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "control element" is not defined explicitly in the specification or implicitly through its usage. Furthermore, it is unclear as to whether the "control element" is hardware or software, and what components it comprises. Thus, the term renders the claim indefinite since one of ordinary skill in the art would not be able to ascertain the scope of the claim. The Examiner has interpreted the claim in a manner that would render the prior art applicable. *Ex parte Ionescu*, 222 USPQ 537 (Bd. App. 1984).

Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation "can be easily operated through two of the four control elements located on the universal adapter concerning basic functions" is unclear and not defined explicitly in the specification or implicitly through its usage. Furthermore, since "control elements" are not defined within the specification, it would be nearly impossible to one of ordinary skill in the art to understand how parts of the invention can be "operated through . . . control elements." Thus, one of ordinary skill in the art would not be able to ascertain the scope of the claim. The Examiner has interpreted the claim in a manner that would render the prior art applicable. *Ex parte Ionescu*, 222 USPQ 537 (Bd. App. 1984).

Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "expanded in operation and configuration" is not defined explicitly in the specification or implicitly through its usage. There is no teaching in the disclosure as to how the universal adapter would be "expanded." The term "expanded" is a broad term and requires further explanation and definition to enable one of ordinary skill in the art to ascertain the scope of the claim. The Examiner has interpreted the claim in a manner that would render the prior art applicable. *Ex parte Ionescu*, 222 USPQ 537 (Bd. App. 1984).

Claims 23 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "user modes" is not defined explicitly in the specification or implicitly through its usage. For example, it is unclear as to what "modes" the invention embodies, the function of different "modes," and what aspects of operation or usage are affected by these "user modes." Thus, the term renders the claim indefinite since one of ordinary skill in the art would not be able to ascertain the scope of the claim. Furthermore, the Examiner has interpreted the claim in a manner that would render the prior art applicable. *Ex parte Ionescu*, 222 USPQ 537 (Bd. App. 1984).

Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation "a function to change the user mode" is unclear and not defined explicitly in the specification or implicitly through its usage. Furthermore, it is unclear as to whether the "function" comprises hardware or software algorithms, and one of ordinary skill in the art would not be able to ascertain the scope of the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-28 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,790,178 to Mault et al. (hereinafter Mault).

Mault discloses various physiological monitor modules (Col. 6 - Ln. 15-30) that interact with a PDA which serves as a universal adapter and process module (Col. 2 - Ln. 45-67). Alternatively, the process module may be located separate from the PDA (Col. 7 - Ln. 1-26). The physiological monitor modules include processors and memory (Col. 2 - Ln. 45-67). The physiological monitor modules measure various body parameters (Col. 4 - Ln. 15-40). It is inherent that the PDA comprises a processor and memory. The PDA automatically recognizes that module that is connected to it (Col. 4 - Ln. 55-60). The PDA includes module capable of recording voice (Col. 5 - Ln. 4-15), which is a form of biometric data, and video (Col. 18 - Ln. 23-27). The PDA comprises various user modes dependent upon which module is attached (Col. 4 - Ln. 15 - 40). The PDA includes various forms of connection options for transmission of data between the PDA and modules (Col. 4 - Ln. 40-56; Col. 5 - 40-55). The PDA includes the ability to communicate wirelessly (Col. 7 - Ln. 15-26). It is inherent from the disclosure that the PDA and modules must each have a battery. The PDA also includes GPS (Col. 12 - Ln. 1 - 30). The PDA includes health management software (Col. 6 - Ln. 60-65). Thus, all of the features of the claimed invention are either explicitly or inherently disclosed by Mault.

Response to Arguments

Applicant's arguments filed May 9, 2007 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., function modules acting at the same time, a basic control mode which would allow a uniform control of all function modules) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant contends that Mault fails to disclose a universal adapter in form of an individual module. The Examiner disagrees. Mault discloses a device that interfaces to a plurality of other devices (Col. 2 Ln. 45-67 PDA). The PDA comprises a processing module that processes that data. Under the broadest reasonable interpretation of claim 1, the process module may be a part of the universal adapter since it is not claimed as a separate device. Therefore, the applied prior art is sufficient to reject the claim.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

Art Unit: 3769

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kai Rajan whose telephone number is (571)272-3077. The examiner can normally be reached on Monday - Friday 9:00AM to 4:00PM.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kai Rajan/
Examiner, Art Unit 3769

/Michael C. Astorino/
Primary Examiner, Art Unit 3769

October 16, 2008